



# California Fair Political Practices Commission

March 1, 1989

Thomas Haas  
City Attorney  
City of Walnut Creek  
PO Box 3039  
Walnut Creek, CA 94596

Re: Your Request for Informal Advice  
Our File No. I-89-048

Dear Mr. Haas:

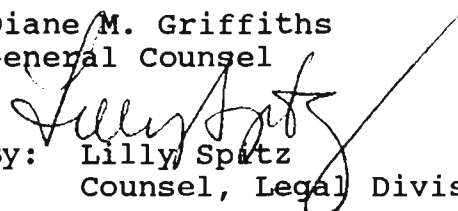
You have requested advice concerning the duties of Councilmember Gwen Regalia under the conflict-of-interest provisions of the Political Reform Act.<sup>1/</sup> Since your request for advice does not refer to a specific governmental decision, we are treating your request as one for informal assistance.<sup>2/</sup>

This letter confirms that your letter dated January 20, 1989, accurately summarizes the telephone advice I provided to you on December 16, 1988. Regulation 18702.1(a)(1) and (a)(2), and Regulation 18702.2(g) (copies enclosed) should be used to determine when the councilmember must disqualify herself from a decision affecting the law firm.

Please contact me at (916) 322-5901 if you have any further questions regarding this matter.

Sincerely,

Diane M. Griffiths  
General Counsel

  
By: Lilly Spitz  
Counsel, Legal Division

DMG:LS  
Enclosure

---

1/ Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

2/ Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)



FPPC  
JAN 24 9 12 AM '89

January 20, 1989

Ms. Lilly Spitz  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, Ca 95804

Re: Conflict of Interest Regulations

Dear Ms. Spitz:

On December 16, 1988 I talked with you by telephone on the way to analyze conflict of interest questions which could arise concerning one of Walnut Creek's councilmembers who is married to an attorney. She has asked that I confirm our conversation in writing so I am setting forth my analysis for your review.

Councilmember Gwen Regalia's husband is a partner in the East Bay law firm of Miller, Starr & Regalia. His interest in the firm is less than 10%. Her husband's law firm is a source of income to her within the meaning of the Political Reform Act of 1974 as amended. The state law's definition of "income" also includes as income of an individual a pro rata share of any income of a business entity in which the individual or spouse owns a 10-percent interest or greater. However because her husband's interest in the firm is less than 10%, the law firm's income from its clients is not attributed to him or her as an individual's source of income (i.e., the source of her and her husband's income is the firm of Miller, Starr & Regalia, and not any of the firm's clients). Government Code Section 82030(a). Thus projects which could have an effect on the income of the law firm's clients do not effect her right to participate in decisions unless the decision also impacts the law firm's income.

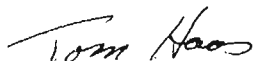
As we discussed, the applicable regulations which have been adopted by the FPPC are Title 2 Sections 18702(b)(3)(C), and 18702.2(g) of the California Administrative Code. These regulations require a person to not participate in a decision that would have a material financial effect on a source of income, and for a firm such as her husband's establish as the test of materiality whether the decision will result in an increase or decrease in the firm's gross revenues for a fiscal year of \$10,000 or more.

The law firm has adopted the policy of referring client's who propose to retain them on projects which may involve decisions of

the Walnut Creek council to other law firms. Since decisions on such projects therefore could not affect the law firms income, Mrs. Regalia could participate in decisions affecting those persons whose projects were declined by the law firm.

Could you please confirm that this letter accurately sets forth the mode of analysis which should be used under the situation I have described.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Tom Haas".

THOMAS HAAS  
City Attorney

TH:cc



# Walnut City Of Creek

P.O. Box 8039

1666 North Main Street • Walnut Creek, California 94596

Ms. Lilly Spitz  
Fair Political Practices Commission  
P.O. Box 807  
Sacramento, Ca 95804



Walnut Creek, CA 94596



# California Fair Political Practices Commission

January 26, 1989

Thomas Haas  
City Attorney  
P.O. Box 8039  
Walnut Creek, CA 94596

Re: 89-048

Dear Mr. Haas:

Your letter requesting advice under the Political Reform Act was received on January 26, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Lilly Spitz an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. Sec. 18329.)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

*Diane M. Griffiths*  
Diane M. Griffiths  
General Counsel *by KEd*

DMG:plh